1944 :

File No. S. Dwr. 11/44

Legal- DEPARTMENT

A- BRANCH

Subject:—

Civil Suit No. 448 of 1943

Shrimant Sardar Bhyangarao Daulatrao Ghorpade - — Plff.

V/s.

The Province of Bombay and three others Defts.

Claim— Rs. 15.

—X—

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Madhav Raokadam.
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Dharwar Civil Suit No.448 of 1943.

This suit is for a declaration that the orders passed by Government (Defendant No.1) in G.R.P.D.No.8969 dated the 20th August 1942 directing the resumption of S.No.208 of Unachgeri (Taluka Ron) by the levy of full assessment to be credited to Government are illegal and do not affect the plaintiff's right to recover the rent or land revenue in respect of that land from defendants 2,3 and 4. The material facts are as under. The suit land is situated in the village of Unachgeri which is one of the 27 villages comprising the Gajendragad Saranjam of which the plaintiff is the present Saranjamdar. In 1905 the then Saranjamdar Bhujangrao Hindurao Ghorpade granted the suit land as a jadid Inam to one Bhimabhat Tamanbhat as remuneration for the performance of the worship of Shri Maruti Deo. The grantee's family remained in possession of the land until 1940 when it was sold by Venkat Krishnacharya Gaddegeri the grandson of Bhimbhat, to the defendants Nos.2,3 and 4. As the land had been in possession of the alienees for more than 60 years, the Saranjamdar was not entitled to claim restoration of land nor full assessment thereon. Hence, on the anology of the orders passed in G.R.P.D.No.8969/2951 dated 26th October 1937, Government directed in G.R.P.D.No.8969 of 20th August 1942 that the suit land should be resumed by the levy of full assessment which should be credited to Government. The plaintiff in this suit challenges the validity of these orders alleging that the grant of the Jadid Inam by his ancestor was a grant of land burdened with service, that since the services were no longer being performed he and not Government was entitled to resume and levy assessment on i Now there is no clear evidence to show that the grant of land to himabhat was a grant burdened with service and liable to resumpti n the cessation of the service. On the contrary the Marathi Sana granted by Bhujangrao Hindurao to Bhimbhat in Shaliwahan year

1726(A.D.1908) indicates that the suit land was granted as a personal Inam for spiritual consideration and not conditionally on the performance of the worship of ~~the~~ Shree Maruti Deo.. Not even the name of that Deity/~~as~~ is mentioned in the Sanad. As observed by the Commissioner in his N.M.T.N.1241 dated 24th July 1942, the grant seems to h been associated with the Dewasthan because the grantee happened to perform the Dewasthan Worship. It is for the plaintiff to establish that the grant was burdened with service and is such as permits of resumption. In his memorandum No.3605 dated 13th July 1937 to the Political Services Department, the R.L.A. has held that Saranjam lands which were alienated to an outsider and which have been in his possession for more than 60 years cannot be claimed by the Saranjamdar and such lands, having gone into the possession of a total stranger and having lost the character of saranjam should be resumed by Government by the levy of full **assessment** which should be credited to Government. Government have a common law right to resume saranjams or portion thereof at their pleasure particularly when it is found that it has gone into the possession of persons who are strangers to ~~the~~ original grantee's family. (1877 P.J.121;I.L.R.17 Bom.431.) In G.R.P.D. No.8969/2951 dated 26-10-1937 Government accepted this view and the orders in respect of the suit land were also passed on the analogy of the orders in the G.R. of 1937. The suit is also barred under section 4(6) of the Revenue Jurisdiction Act and Article 130 read with s.28 of the Limitation Act.

The plaintiff's contentions are not tenable. Sanction may be accorded to the defence of the suit on the lines of the accompanying brief. A draft written statement is alsp put up.

16/8

RLA 20/8/44

Sec RD

Ch. Sec P&SD.

P & S.D. should put up a note in light of RLA's opinion 26.8.44

Suits :

Dharwar.

For a declaration that orders passed by Government in G.R., P.D., No. 8969, dated the 20th August 1942, directing the resumption of S. N. 208 Unachgeri are illegal and do not affect the plaintiff's right.

GOVERNMENT OF BOMBAY.

LEGAL DEPARTMENT.

Resolution No. 6176.

Bombay Castle, 2nd September 1944.

Letter from the Collector of Dharwar, No. L. A. W. 437, dated the 30th June 1944—

IN THE COURT OF THE FIRST CLASS SUB-JUDGE, DHARWAR.

Civil Suit No. 448 of 1943.

Shrimant Sardar Bhujangrao Daulatrao Ghorpade .. Plaintiff;

versus

The Province of Bombay and three others .. Defendants.

Claim—Rs. 15.

Forwarding papers in the suit noted in margin; and requesting sanction to its defence.

Endorsement by the Commissioner, Southern Division, No. L.S.T. 312, dated the 8th July 1944—Forwarding the above with his concurrence.

Memorandum to the District Government Pleader, Dharwar, No. 6175, dated the 2nd September 1944—Forwarding a copy of the brief with its accompaniments in advance.

[*P.T.O.*

RESOLUTION.—Sanction is accorded to the defence of the suit on the lines of the accompanying brief.

By order of the Governor of Bombay,

Original

P. N. MOOS,
Secretary to Government.

G. R. No. 6176, L. D., dated the 2nd September 1944.

To

* The Political & Services Department,
* The Commissioner, Southern Division,
* The Collector of Dharwar,
The District Government Pleader, Dharwar (with two copies of the brief).

Issued 8/9/11

* With a copy of the brief.

No. of 1944.

Copy forwarded for information and guidance to

Submitted after issue
File in a new suit file

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DHARWAR CIVIL SUIT NO. 448 OF 1943.

Chronological Statement of Facts.

1. The plaintiff sues for a declaration that the orders passed by Government (defendant No. 1) in Government Resolution, Political and Services Department, No. 8969, dated the 20th August 1942, directing the resumption of the Saranjam land Revision Survey No. 208 of the Jahagir village of Unachgeri (Ron Taluka) by the levy of full assessment to be credited to Government, are illegal and *ultra vires* and do not affect the plaintiff's right to recover the rent or land revenue in respect of the said lands from defendants Nos. 2 to 4.

2. Unachgeri is one of the 27 villages comprising the Gajendragad Saranjam in Ron Taluka, district Dharwar. In Shaliwahan Era 1726 (A.D. 1805), the then Saranjamdar Sardar Bhujangrao Hindurao Ghorpade, the fore-father of the present plaintiff, granted the suit land Revision Survey No. 208 (then bearing survey No. 105) to Bhimbhat Tamanbhat for the performance of the Puja service (worship) of Shri Maruti Dev. Till 1940 the land remained in the possession of the family of the grantees. On 16th June 1940, Venkat Krishtacharya *bin* Krishtacharya Gaddigeri and his brothers all of whom are the grandsons of Bhimbhat, the original grantee, sold away the suit land to the present defendants Nos. 2, 3 and 4 for Rs. 1,500 by a registered sale-deed.

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3. On 26th April 1944, the defendants Nos. 2, 3 and 4 stated before the Mamlatdar that they had purchased the suit land from Venkat Krishtacharya Gaddigeri; that the land was a personal inam and not Devasthan land as was wrongly stated in the Revenue Records, that they should be confirmed in their possession and their names entered in the Record of Rights and that they were willing to pay full assessment, if levied.

4. On 9th June 1941, the plaintiff wrote a letter of request to the Mamlatdar, Ron, stating that the land Revision Survey No. 208 of Unachgeri appeared in the village accounts of the Jahagirdar as having been granted by the ancestors of the plaintiff to the ancestors of Venkat Krishtacharya Gaddigeri for the performance of the worship of Shri Maruti Deo, that the land was not granted as personal inam but for Dewasthan service, that it was inalienable and that as the services had ceased to be performed, the land may be restored to the plaintiff.

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5. On 10th October 1941, the Mamlatdar of Ron reported to the Assistant Collector, III Division that the land Revision Survey No. 208 of Unachgeri which was Dewasthan inam land might be resumed and restored to the plaintiff. On 20th October 1941, the Assistant Collector submitted a similar report to the Collector.

File page 61 (reverse).

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6. On 30th November 1941, the Collector returned the papers to the Assistant Collector with a request to give the details regarding the nature of the inam, the survey number and the corresponding old survey numbers and to state the evidence in support of the presumption that the alienation was more than 60 years old.

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7. On 4th June 1942, the Assistant Collector reported to the Collector that the land was entered as a Dewasthan inam in V. F. No. I of 1885-86 and that the Marathi sanad showed that the land was alienated to Bhimbhat in 1805 A.D. and the alienation was therefore more than 60 years old.

8. On 24th June 1942, the Collector addressed a letter to the Commissioner, Southern Division, stating that as the alienation of the suit land was more than sixty years old, on

the analogy of the orders passed in Government Resolution, Political and Services Department, No. 8969/2951, of 26th October 1937 the land was liable to be resumed by the levy of full assessment to be credited to Government, and requesting that Government may be moved to resume the land accordingly (Collector's No. W.T.N. (N. S.) 712, dated 24/27th June 1942.)

9. In his endorsement No. W.T.N.-1241, dated 24th July 1942, the Commissioner pointed out that the grant was to the family of the grantee and not to the temple and he therefore recommended that the Collector's proposals may be accepted.

10. On 20th August 1942, Government in Government Resolution, Political and Services Department, No. 8969, directed that the suit land should be resumed by the levy of full assessment which should be credited to Government.

11. On 13th August 1943, the plaintiff gave notice of the suit under section 80 of the Civil Procedure Code. On 10th November 1943, he filed the present suit in the Court of the First Class Subordinate Judge, Dharwar.

Grounds of Defence.

1. *Jurisdiction.*—The plaintiff claims a two-fold declaration in this suit—a declaration of his own right to assess the suit land as also a declaration that Government have no such right. The cause of action is stated to have arisen on 11th September 1942, the day on which the orders of Government were communicated to the plaintiff. The suit thus clearly constitutes an objection to the incidence of land revenue authorised by the Government Resolution and is therefore barred under section 4 (*b*) of the Bombay Revenue Jurisdiction Act.

2. *Limitation.*—Assuming that the plaintiff did possess the right to assess the land at any time, the right is extinguished under section 28 read with Article 130 of the Indian Limitation Act. The suit land passed out of the possession of the plaintiff's family in 1805 and, as it appears, it was held rent free by the alienees until 1940 when it was transferred to defendants Nos. 2, 3 and 4. The right to assess the land arose as early as 1805 when the alienation was made. The land having been held adversely and free from payment of rent since then, the plaintiff's right to assess the land or recover rent is time-barred under section 28 read with Article 130 of the Limitation Act (*see* Madhavrao *v.* Ansuyabai 18 Bom.L.R. 768; Sakharam *v.* Trimbakrao 23 Bom.L.R. 314).

3. *Merits.*—The contention of the plaintiff is that the suit land survey No. 208 was granted by his ancestors to the ancestors of Venkata Krishtacharya Gaddigeri as remuneration for the service of performing the Puja (worship) of Shri Maruti Deo. The services have ceased, at any rate, after the sale of the land by Venkata Kristacharya to the defendants Nos. 2, 3 and 4. The plaintiff therefore contends that he has a right to recover rent or assessment from the defendants Nos. 2, 3 and 4 in lieu of the service for the remuneration of which the land was first alienated. It is thus clear that the land is a jadid Inam granted by plaintiff's ancestors to the ancestors of Venkata Krishtacharya in 1805. The only evidence from which some idea of the terms and conditions of the grant can be formed is to be found in the Marathi sanad of Shaliwahan year 1726 (A.D. 1805) and the entries in village form No. 1. The Marathi sanad which in this case is perhaps the most important document does not support the plaintiff. The sanad shows that Saranjamdar Bhugangrao Hindurao Ghorpade conferred a hereditary grant of land on Bhimabhat

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for certain spiritual considerations. There is nothing in that sanad indicating a grant of land for the performance of the worship of Maruti Deo. There is an utter absence of any such recital in this document. Therefore a mere entry in the Revenue Records that the land is Devasthan land of Shri Maruti would not be sufficient to show that the land was to be held for the performance of the worship in the future. For upwards of a century the land has been enjoyed by the predecessors in title of the defendants Nos. 2, 3 and 4. The enjoyment was under the sanad conferring title to the land. In such a case it is for the plaintiff Saranjamdar to establish that the grant was burdened with service and as such permits of resumption. It has been held that where there has been a long and undisturbed possession enjoyed by the grantee, it will require strong evidence on the part of the grantor to make out his case (*see* Lakhamgavda *v.* Keshav Annaji I.L.R. 28 Bom. 305). In this case there is no evidence on the part of the plaintiff Saranjamdar to show that he is entitled to resume the land. It is true that in Inam Register Village Form No. 1 the land has been shown to have been granted for the Shri Maruti Devasthan service. But, as observed by the Commissioner in his endorsement No. W. T. N. 1241, dated 24th July 1942, the grant was associated with the Devasthan because the grantee happened to perform the Devasthan service. It is not enough to show that the grant was subject to a liability to perform the service of Puja.

4. The position then was that as the alienation of the suit land was more than sixty years old, and as there was nothing to show that the grant was burdened with service the plaintiff Inamdar was not entitled to claim restoration of the land nor full assessment thereon. Government have on the other hand the common law right to resume Saranjams or any portion thereof at their pleasure, particularly when it is found that the Saranjam or portion thereof has gone into the possession of persons who are total strangers to the original grantees

family (*see* 1877 P.J. 121; I.L.R. 17 Bom. 431). In the present case the land has passed into possession of defendants Nos. 2, 3 and 4 who are total strangers to the Saranjamdars family and do not do any service. The right of resumption was not exercised by Government on the death of the successive Saranjamdars and the alienees having held the land uninterruptedly for more than sixty years can claim to have acquired an indefeasible right to possession by adverse possession. That would not however prevent the Government to resume the land by the levy of full assessment. The soverign right of the Government to assess all land to land revenue is not affected by any consideration of limitation (*vide* section 45 of the Bombay Land Revenue Code: Shapurji *v.* Secretary of State, I.L.R. 9 Bom. 483; Vinayak *v.* Collector of Bombay I.L.R. 26 Bom. 339, Ahmedabad Ginning and Manufacturing Co. *v.* Secretary of State, 39 Bom.L.R. 266 at pp. 270-71). Government were therefore fully justified in ordering full levy of assessment on the suit land to be credited to Government on the analogy of the orders passed in Government Resolution, Political & Services Department, No. 8969/2951, dated 26th October 1937. In this view of the case, the question whether the Saranjam was a grant of the soil as well as of the land revenue does not arise in this suit. It is possible that the grant was of the soil as well as of the land revenue and this point may be conceded. The plaintiff however cannot object to the levy of full assessment by Government on the suit land. It is clear that he has no subsisting title to the land or to revenue thereof. The land has been irrevocably lost to the Saranjam.

5. For these reasons therefore it should be urged that the suit fails and must be dismissed with costs.

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Pleaders.

Mr.Jamkhandi. 1. Shriment Sardar Bhujangrao Daultrao Ghorpade, of Gajendragad.

--------- Plaintiff.

Against.

Mr.Malapur. 1. The Provincial Government of Bombay.

Exparte. 2. Hire Basappa Dundappa Marad of Gajendragad.
3. Mudkappa Fakirappa Hallad.
4. Irappa Shivappa Halkeri.

--------- Defendants.

Claim Rs.224-15-0

The plff sues to obtain a declaration that the orders of the Government embodied in G.R.No.8969/ dated the 20th August 1942, Political and services Department were ultra vires and not binding upon the plff - and to recover a sum of Rs.24-15-0 from the defts 2 to 4 as rent or revenue in respect of the plaint hand - S.No.208 of Umachgeri in Ron Taluka and to recover costs from the defts.

Plaintiff alleges in the plaint that he was the saranjamdar of Umachgeri and other villages in Ron Taluka, that the saranjam grant - consists of both the soil and the Royal share of the Revenue, that - S.No.208 of Umachageri was given by the plff's ancestor to the predecessor in title of the defts 2 to 4 as renumeration for the services of - performing the puja of shree Maruti God at Gajendragad, that the - descendants of the original grantee have sold their rights to the defts 2 to 4 by sale deed, dated 14-6-1940, that the latter have got the services commuted and in lieu thereof agreed to pay a sum of Rs.24-15-0 prayara per year as rent or revenue of the land to the plff and passed a karar patra

accordingly in the name of the plff, that the Government of Bombay, in G.R. No.8969, dated the 20th August 1942 Political and Services Department, have ordered the land in suit to be assessed to the payment of land Revenue under Survey settlement rules and the assessment thus levied to thexx be credited to the Government, that the orders of the Government were illegal and ultra vires, that the land still forms part of the saranjam, that the grant is both of the soil and Revenue, that in as much as the holders of the land have already been recognizing the plff 's rights as Saranjamdar, no question of the resumption of the land arises in this case, that the Provincial Government of Bombay has been impleaded to the suit as the orders issued by it affect the plff's rights, that the defts 2 to 4 have ceased to pay the rent consequent upon the issue of the G.R. mentioned above, that notice under Section 80 of the C.P.Code has been delivered to the Collector, Dharwar and that the plff has filed the suit to obtain the reliefs as stated above.

The Government in its W.statement Ex.24 contends that the suit was barred under Section 4 clauses and a and b of the Bombay Revenue jurisdictio Act, that it was barred under Article 130 read with section 28 of the Indian Limitation Act, that the land having been in the possession of an alienee uninterruptedly for a period of over 60 years and no rent having been paid in respect of them was lost to the Saranjam in as much as the Government's right to resume then was extinguished by efflux of time, that in directing the levy of full assessment Government have merely exercised their inherent ri to assess all land to land revenue, that the said right of Government is not Governed by any period of limitation , that the order of the Government in G.R.No.8969, dated the 20th August 1942 are valid and intravires, that the plff was not entitled to any relief, that the suit should be dismissed as against the Govern ent and its costs awarded.

The efts 2 to 4 had appeared through pleader and taken time to give a written statement . But , subsequently they have remained absent and the pleader has given a purshis of no instructions (Vide Ex.23). They have therefore been proceded exparteOn the above pleadings, the following issues were framed at Ex.30.

Issues.

1. Is the suit barred under Section 4 (a) and 4 (b) of the Bombay Revenue jurisdiction Act ?
2. Is the suit barred by time under article 13 and read with Section 28 of

the Indian Limitation Act ?

3. Does deft 1 prove that the land in suit was alienated by the plff's ancestor more than sixty years before resumption ; if so is it - further proved that the land lost its character of saranjam?

4. If so, is Government entitled to levy full assessment on the land and order it to be paid to the Government?

5. If not ; is the G.R.No.8969/20-8-1942 valid and legal ?

6. If not , is plff entitled to the declaration sought ?

7. What decree should be passed ?

Findings.

1- Yes. 2. Finding not recorded.

3. The land was granted in the beginning of the 19th - century to a stranger to the family by the plff's ancestor for service in a temple ; the question is to whether the - land lost its character as saranjam is not decided.

4. Not decided. 5. Not decided.

6. No ; The suit is barred as per finding on issue No.1.

7. As below.

Reasons.

The suit land S.No .208 is situated at Umachgeri in Ron - Taluka. It is an admitted fact that the village of Umachageri is a - Saranjam village of the plff. It has been held in many cases to which the Government was a party that the grant of the Gajendragad Jahagir or - Saranjam comprises both the soil and Revenue. Plff has made an averment to what effect in the plaint and the Government have not specifically - denied it in their Written statement. Under the rules of pleading, Govt - must be deemed to have admitted that fact (Vide order 8 rule 5 of the C.P. Code).

Now, the earliest document on the record regarding the suit land is Ex.45. It is an extract from the Inam patraka prepared in the - year 1859. The head note of collumn No.2 reads as follows :- " The name of the Inamdar as per Dakhala in Fa'sli 1252 " (1842). The entry is to the following effect :- " Marutidev, near the big gate ". Then it is torn in the original. The subsequent words that can be deciphered are ' i.e. possession with some Bhat (i.e. priest) . Column 3 gives the area of the lands as 4 kurgis i.e. about 16 acres. Column No.5 gives the name of the person in whose possession the land was and the name is Hanmant - Bhat in Narsibhat, of Gajendragad. The head note to collumn No.6 is -

important. It reads :- who acquired the Inam, in what year and who gave it ". The entry reads :- Daulatrao Ghorpade gave the land in Inam about 60 years before to the father of Hanmant-bhat . Collumn No.7 shows that the original grantee died in or about Fasli 1269 (1859) and the name of - Hanmantrao was entered in the Chitta in his place.

The next document is extract from village form No.1 of the year 1885-86 (Vide Ex.42). It shows that the land - R.S.No.105 which is equivolent to the present S.No.208 - was called " Gedgeri Charya Hola ". It is shown as " Devasthan Inam ". Column 13 which is meant to give the name of the Khatedar or the occupant , contains the following :- Shree Maruti Dev, near the gate at Gajendragad worshipper Venkat Kristappa Gadgeri. - Ex.41 is an extract from the Inam register of the year 1886-87. It also - contains similar entries. The Collector's letter to the Commissioner S.D. gives the following history of the land:-

" Umachageri is one of the Saranjam villages comprising the - Gajendragad Saranjam Estate in this District. Sardar Bhujangrao Hindurao Ghorpade, the the fore-father of Sardar Bhujangrao Daulatrao (The - present Saranjamdar) granted S.No.105 (The present corresponding - number of which is 208) to one Bhimbhat Tammanbhat in Shaliwahan era 1726 i.e. in 1805 A.D. for the performance of puja service of Shri - Maruti Dev. Venkat - Kristacharya bin Krishnacharya and his 3 brothers who are the grand sons of Bhimbhat (the original grantee) sold S.No. 208 for Rs.1500 to Hirebasappa Dodbasappa Marad and two others on - 18-6-1940 and executed a registered sale deed in their favour ".

The Commissioner's endorsement on this letter reads :- The land was gifted in 1805 for spiritual consideration and for the Devasthan service of the Shri Maruti Temple. The Saranjamdar has reported that in the Chitha of 1858-59 the land was shown to have been granted for Devasthan service and in the Inam register of 1886-87 also it has been shown to have been granted for the Shri Maruti Devasthan services. It therefore appears that as the grantee happened to perform the Devasthan service, the grant was associated with the Devasthan. It is therefore evident that the grant was th the family of the grantee and not to the temple .

The Government resolution reads :- ' Government is pleased to direct that the Saranjam land in S.No.208 of Umachangeri, a village

comprised in the Gajendragad Sarenjam in Taluka Ron, Dharwar District, should be resumed but that this resumption should be by the levy of full assessment which should be credited to Government " (Vide Ex.43).

The Government have produced a grant of the year 1726 (1805) - which has been referred to in the Collector's letter and which is - alleged to refer to the suit land (Vide Ex.37). It purports to have - been passed by Bhujangrao Hindurao Ghorpade. There is no reference in it to the worship of Shree Maruti Dev of Gajendragad. The grant appears - to be personal and not burdened with any service. It is therefore doubtful whether it relates to the plaint land. The entries made in the Inam Patrak of the year 1859 do not tally with the contents of the grant - Ex.37. In Ex.45, the grantor's name is given as Daultrao Ghorpade and the grantee's name as Narsibhat and there is the name of Shree Maruti Dev, near the big gate at Gajendragad, mentioned in column No.2 of Ex.45 I am therefore ~~included~~ inclined to the view that Ex.37 does not relate to the suit land. I accept Ex.45 as giving the true state of facts - especially when it is followed in subsequent documents. Whatever the - original may be, two things are admitted viz the grant was made by an - ancestor of the plff about the beginning of the 19th century and that th grant was burdened with service viz worship of certain Maruti Dev - situated at Gajendragad.

Now, the oral evidence on the record goes to show that the - worship of the said Maruti Dev was being arranged by the members of the grantee s family till they sild the land to the defts 2 to 4 in the - year 1940. Ex.47 is plff's Karbhari Ex.52 is the officiating Kulkarni of Gajendragad and Ex.51 is one Ganesh Shastri who performed the worship off and on. The members of the grantee family reside at Gedgeri in - Nizam's territory since a long time. They used to employ some brahmin or other at Gajendragad to do th worship on their behalf. The defts 2 to 4 have admitted after their purchase that the land was burdened with service (Vide Ex.48). They have entered into an agreement with the plff to pay the latter a sum of Rs.24-15-0 per year as rent or revenue in - lieu of service (Vide Ex.49). As a matter of fact they have paid - Rs.24-15-0 for the year 1941-42 in which the agreement was entered into.

The first contention of the Government is that the suit -

was barred under Section 4 clauses A and B of the Revenue Jurisdiction Act 1876. Section 4 (a), clause 4 reads :- ' claims against Government relating to lands held under treaty , as to lands granted as held as - Saranjam oe another political tenure, as to lands declared by Government or any officer duly authorised in that behalf to be held for service.

In this case there surely is a claim against the Government. Govt claim the right to levy assessment over the land in suit and to the assessment when levied. The Government's point of view is that a saranjam is - ordinarily inalienable. In this particular case the plff's ancestor has - alienated the land which formed part of the saranjam to a stranger more than 100 years before. The alienees now claim to ~~xx~~ hold adversly to Government. They have acquired an indefeasible right to remain in possession under Section 28 read with article 149 of the Limitation Act. Their right has now ripened into a prescriptive title. The Saranjam Tenure of the land has been extinguished and Government cannot exercise their comment and right of - resumption, although such right was exercisable at pleasure. As the land has lost its character as Saranjam. Government is free to assess it under the - Land Revenue Code and direct the assessment to be paid into the Government Treasury. This line of argument assumes that the possession of the stranger is adverse to the Saranjamdar and incidentally to the Government. In this - case the alienation or grant was not absolute. It was burdened with service and presumably the grant was to continue so long as the service was rendered. There is evidence to show that the service was being rendered till the year 1940. The vendees - defts 2 to 4 - have got the services commuted in lieu of an annual ~~xx~~ payment of rent or revenue to the Saranjamdar. Whether under these circumstances it can be said that the possession of the grantee or alienee was adverse, is doubtful. It is still more doubtful whether Government can - take advantage of the adverse possession of a stranger for a period of 60 years and seek to make profit out of it. Whether the Saranjam character of the land is lost or extinguished by 60 years possession by a stranger is a doubtful question. After the death of plff's father, the Government have - formally resumed all the 27 Saranjam villages comprising the Gajendragad - Jahagir and regranted them to the present plff in the year 1932 by means of a G.R. What is the effect of the said resumption and regrant will be another question to be considered in this case.

Government no doubt say that the Saranjam character of the land has been extinguished. But the plff's claim is advanced and rests upon a Ranjam Tenure and section 4 of the Revenue Jurisdiction Act is a bar to any relief being granted to the plff against the Government relating to the suit land in so far as it is claimed to be granted as held as saranjam. Even a declaratory relief cannot be granted under Section 4 (a) of the Revenue - jurisdiction Act (Potdaya V. Secretary of State 25 Bombay L.R. 1160)

In a similar case, in first appeal No 341 of 1940 our present Chief Justice and justice Divatia have held that the suit is barred, . - Justice Divatia observes as follows in his concurring judgment :- It is true that the deft's case is that the lands ceased to be saranjam longe ago and at the date of the suit they were Khalasa lands but the plff claims them in this suit as Saranjam lands and such a claim must come within the bar of Section 4. The plff, however, urges that the Government resolution of 1937 by which they were resumed proceeds upon the erroneous ground, that they were acquiesced by the second deft's family by adverse possession and that they had ceased to be saranjam whilst the Government had included the suit lands in the grant of a separate Saranjam to the plff in 1936. It was urged on these grounds that the resolution of 1937 was ultra vires and that therefore there was no bar of - section 4, but even the ultra vires nature of the resolution would not remove the bar as it would do in some cases under the Hereditary offices Act. No relief even of a declaratory nature can be granted to the plff. The suit also appears to be barred under Section 4 (b) clause I because the plff objects to the - incidence of any assessment of Land Revenue authorised by the Government. In - view of my finding on issue No.1 it is unnecessary to consider the other - issues or matters in which the Government is concerned. So far as defts 2 to 4 are concerned, they have not disputed the plff's claim to recover a sum of - Rs.24-15-0 from them as rent or revenue of the year 1942-43. Under the Karar patra Ex.49, they are bound to pay the money. If ultimately the Government - basis the assessment and recovers the same from them , it will then be open to them to seek any relief against the plff which they may be legally entitled to . I record my findings as above upon the points raised and pass - the following order.

Order.

Plff may recover a sum of Rs.24-15-0 from the defts 2

Plff's claim against the deft 1 is dismissed with costs. ~~Him~~ Plff to pay the costs of the defendant No.1. Plaintiff and defts 2 to 4 to bear their respective costs of suit. A

23-2-1945.

Sd/- M.S.Bagali.
First Class Subjudge.

Copied by

" True Copy "

Compared by

Clerk of the Court.

19 459

Copy was applied for

Clerk of the Court.

Copy was ready for delivery on the

Clerk of the Court.

It was delivered (sent by post) on the

Clerk of the Court.

Decree.

In the Court of the First Class Subjudge,

At Dharwar.

L.C.Suit No.448 of 1943. Ex.55.

Plaintiff :- Shrimant Sardar Bhujangrao Daulatrao Ghorpade, age 40, caste Maratha, occupation Jahagirdar, resident of - Gajendragad, Taluka Ron.

Against.

Defendants:-1. The Provincial Government of Bombay.

(The summons to be served on the Collector of Dharwar)

2. Hire Basappa Doddappa Marad, age 30, caste Lingayat, - occupation agriculturist and trade of Gajendragad, - Taluka Ron.

3. Mudkappa Fakirappa Hallad, age 60, caste Kurbar, occupation agriculture, residing at Umachageri, Taluka Ron.

4. Irayya Sivappa Halkeri, age 48, caste Lingayat, occupation agriculture, residing at Umachageri, Taluka Ron.

Presented on 10-11-1943.

Filed on 10-11-1943.

Claim Rs.224-15-0.

The above named plff claims as follows :-

1. Plff is the saranjam Inamdar of the village - of Umachageri along with some other villages in Gajendragad Jahagir in Ron Taluka in the District of Dharwar. As such Inamdar he is the owner of the soil as well as the revenue as the said villages.

2. The land S.No.208 in the said Umachageri village is Jadid Inama land given by the predecessor in title of the plff to - the predecessor -in-title of the present khatedar Venkata Kristacha Gadigeri as remuneration for the services in the form of performing Puja of Shri Maruti God at Gajendragad to be rendered to the Inamda

family.

3. The present Jadid Inamdars Venkat Kristachar and others have - transferred their rights along with liabilities in respect of the said land to (1) Hire Basappa Paddappa Marad (2) Mudakappa Fakirappa Hallada (3) Veerappa Sivappa Halkeri pathe defts 2, 3 4 under a registered deed dated 14-6-1940.

4. The said transferees plffs 2, 3 , 4 have by executing a karar patra in favour of plff agreed to pay Rs.24-15-0 as rent or revenue in place of the liability to render puja service. Thus the land is under liability to pay rent or revenue to the plff.

5. The plff has been intimated by the Mamlatdar and of Ron by yadi - dated 11-9-1942 that the Government has by G.R.No.8969 dated 20-8-1942 P[redacted]ical and Sevices Department Bombay ordered the land to be assessed land revenue under survey settlement rules and the assessment thus levied be credited to Government

6. Plaintiff contends that this act of Government in assessing land and ordering assessed revenue to be credited to Government is against law and not justified under the subsisting conditions and relations of Saranjam Inam - grant to the plff's family. The said order of the court thus affects the rights of the plff Inamdar to recover the rent and revenue from holders of that Jadid Inamdars in the village.

7. As the land forms part of the Saranjam Inam of the plff and the holders of the Jadid Inam from the plff acknowledge the liability to pay the rent or revenue to the plff and are paying the same, the question of - resumption either by the Government or by the Inamdar plff, does not arise and cannot be exercised legally. Plff, therefore contends that the said order of the Government is not tenable under law and cannot affect the rights of the plff or Inamdar.

8. The said order of the Government having the effect of - prejudicing and affecting the rights of plff to recover rent or revenue from the holders of the said land, furnishes a cause of action for the plff against the Government.

9. The cause of action has arisen on 11-9-1942 the day on - which the order of the Government was communicated to the plff.

10. The land being situated at Umachageri in Ron Taluka and the Government being the defendant, the First Class Subjudge Court Dharwar has

19 1359

jurisdiction over the matter and hence the said suit has been filed in - this court.

10 A. Notice required under Section 80 C.P.C. has been delivered at the office Collector, Dharwar.

11. Defendants 2, 3 and 4 being the transferees of the land in question and having executed the Karar Patra to pay rent of Rs.24-15-0 to plff, have ceased paying the same to plff since the Government 's order and so have been joined as defendants.

12. The suit being for declaration against defts, court fees of Rs.15/- is paid for declaration and Court fees to the extent of - Rs.2-4-0 is paid on the amount of rent Rs.24-15-0 for 1942-43 claimed from defts 2, 3 and 4 - total Rs.17-4-0 court fees paid.value for purposes of - jurisdiction is the same.

13 Plaintiff prays that for the reasons given above, the order of the Government defendant 1 embodied in G.R.No.8969/20-8-1942 be declared to be ultra vires, not tenable in law and does not affect the - rights of the plff to recover the rent or revenue in respect of the land S.No.208 from the Jadid Inamdars defts 2, 3 and 4 and that defts 2, 3 and 4 be ordered to pay to plff, Rs.24-15-0 as detailed in para 12, Defts be - ordered to pay the costs of suit.

This suit coming on this day for final disposal before Mr.M.S.Bagali First Class Subjudge, in the presence of Mr.Jamkhandi pleader for plff and Mr.Malapur S.R. pleader for deft No.1 and Mr.T.R.Sawkar pleader for defts 2 to 4 it is ordered that -

Order.

Plff may recover a sum of Rs.24-15-0 from the defts 2 to 4. Plaintiff's claim against the deft No.1 is dismissed with cost. Plff do pay the costs of the deft No.1. Plff and defts 2 to 4 bear their own respective costs of suit.

Plaintiff	RS.As.Ps.	Defendant 1.	Rs.As.Ps.
1. Stamp for plaint	17-4-0	1. Stamp for power	
2. Do for power	0-8-0	2. Do for petition Exs. 11,14,15,18,20,22,25,31, 35,53	5-11-0
3. Do for Exs.32-33,36, and 44.	3-14-0		
4. Pleader s fees on Rs.1000/-	50-0-0	3. Pleader's fees on Rs.1000 -	50-0-0
5. Service of process	5-2-0	4. Sergice of process	- - -
6. Subsistence of witnesses Ex.34.	40-0-0	5. Stamp & copying fees	1-14-0
7- Stamo and copying fee of papers. Ex.45	1-2-0	6. Translation fee Ex.37	1-0-0
	117-14-0		58-9-0
Costs disallowed		Costs disallowed	
1. Stamp for exhibits 32,33,36 and 44	3-14-0	1. Stamp for petition Exs.20,22,25,31,35,53	3-5-0
Total	114-0-0	Total --	55-4-0

Defendants 2 to 4.

1. Stamp for power	0-8-0
2. Do for petition Exs.13, 15, 17, 19, 21	2-10-0
3. Pleader ' s fee on Rs.1000/-	50-0-0
	53-2-0
Costs disallowed.	
Stamp for petition Ex.21	0-10-0
Total	52-8-0

Given undermy hand and seal of court t is 23rd day of February 1945.

Sd/-
clerk.

Sd/- M.S.Bagali.
First Class Subjudge.
14-3-1945.

Plff's pleader Sd/- V.G .Jamkhandi.

Deftls pleader Sd/- S.R.Malapur
Assistant Government Pleader.

Mr.T.R.Sawkar pleader (for defts 2 to 4).

Copied by

Compared by

" True Copy "

Clerk of the Court.

21 61

Suits.
Dharwar.
For a declaration that orders passed by Government in G.R.,P.D.No.8969,dated the 20th August 1942, directing the resumption of S.No.208 Unachgeri are illegal and do not affect the plaintiff's right.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 2228

Bombay Castle, 9th April 1945.

SWK.
P&I & S Dwt 11/44.

Read Government Resolution, Legal Department, No.6176, dated the 2nd September 1944.

Plaintiff

Letter from the District Government Pleader, Dharwar, No.203, dated the 27th March 1945, stating that the suit noted in the margin was decided by the First Class Sub-Judge, Dharwar, on the 23rd February 1945, when the following order was passed:-

In the Court of the First Class Sub-Judge,Dharwar. Civil Suit No.448 of 1943. Shrimant Sardar Bhujangrao Daulatrao Ghorpade.....Plaintiff; versus The Province of Bombay and three others.Defendants. Claim-Rs.15.	noted in the margin was decided by the First

"Plaintiff may recover a sum of Rs.24-15-0 from the defendants 2 to 4. Plaintiff's claim against the deft 1 is dismissed with costs. Plaintiff to pay the costs of the defendant No.1. Plaintiff and defts 2 to 4 to bear their respective costs of suit."

and forwarding uncertified copies of the judgment and decree.

RESOLUTION.- The result of the suit is recorded.

By order of the Governor of Bombay,

original For (P. N. MOOS,
Secretary to Government.

Issued
9/4

To
The Political & Services Department.
The Commissioner, Southern Division.
The Collector of Dharwar.

Submitted for approval and signature
PNM
6/4.

PA 6/4
AS

27e7—7500—11-41

H., J. D., No. 6985, dated 21-10-19 and 6833, dated 22-12-21,
From the Regr. H. Court, St. Bombay C. P. C. Schedule I, Appendix G, No. 6.)

ತಪೀಲಿನ ಅಣಾವಣ
ಗಾಗಿ ನೇಮಿಸಿದ ದಿವಸ
ವನ್ನು ಕುರಿತು ರಿಸ್ಪೋಂ
ಡಂಟನಿಗೆ ನೋಟೀಸು
ಆ. ಳಗಿ, ಕಾ. ೧೪೪.

(ಫಾರ್ಮ ನಂಬರು ೬,
ಪರಿಶಿಷ್ಟ ಗ, ಶೆಡ್ಯೂಲ ೧)

ಜಜ್ಜ ಕೋರ್ಟಿನಲ್ಲಿ

ಮುಕ್ಕಾಮು ಇಲ್ಲಿ. ನಾ

ದಿವಾಣಿ ಮೂಕದಮ್ಮಾ ನಂಬರು ಸನ

ಫಿರ್ಯಾದಿ.

ವಿರುದ್ಧ

ರಿಸ್ಪೋಂಡೆಂಟ.

ಮುಖಾಂತರ.

ಮೇಲೀಫನ ಹತ್ತರ ರಿಸ್ಪೋಂಡೆಂಟನಾದ ಇವನಿಗೆ.

ತಾರೀಖು.

ನಿನಗೆ ನೋಟೀಸು ಕೊಡುವದೇನೆಂದರೆ. ಈ ವ್ಯಾಜ್ಯದಲ್ಲಿ ಕೋರ್ಟಿನಿಂದ

ನಾಳುರ.

ಮಾಡಲ್ಪಟ್ಟ ಹುಕಮನಾಮೆಯ ಮೇಲೆ [illegible] ಇವನಿಂದ
ಅಪೀಲ ಮಾಡಲ್ಪಟ್ಟಿದ್ದು ಅದು ಈ ಕೋರ್ಟನಲ್ಲಿ ರಜಿಸ್ಟರು ಮಾಡಲ್ಪಟ್ಟಿದೆ, ಮತ್ತು ಈ ಅಪೀಲಿನ ಸುನಾವಣೆಯ-
ಬಗ್ಗೆ ಸನ್ ೧೯೪೫ ನೇ ಇಸವಿಯ [illegible] ತಿಂಗಳಿನ [illegible] ತಾರೀಖು ಈ ಕೋರ್ಟಿನಿಂದ
ನೇಮಿಸಲ್ಪಟ್ಟಿದೆ.

ನೀನು ಸ್ವತಃ ಯಾ ನಿನ್ನ ವಕೀಲನು ಯಾ ಅಪೀಲಿನಲ್ಲಿ ನಿನ್ನ ಪಲುವಾಗಿ ಕೆಲಸ ನಡಿಸಲಿಕ್ಕೆ ಕಾಯದೆಯಿಂದ
ಅಧಿಕಾರ ಪಡೆದಂಥ ಬೇರೊಬ್ಬ ಮನುಷ್ಯನು ನಿನ್ನ ಬಗ್ಗೆ ಹಾಜರಾಗದಿದ್ದಲ್ಲಿ, ನಿನ್ನ ಪರೋಕ್ಷದಲ್ಲಿ ಅಪೀಲಿನ
ಸುನಾವಣೆಯಾಗಿ ನಿರ್ಣಯವಾಗುವದು.

ಸಮಕ್ಷ ಪ್ರತಿಜ್ಞೆಯ ಮೇಲೆ

ತಾರೀಖು—

ಈ ಹೊತ್ತು ಸನ್ ೧೯೪೫ ನೇ ಇಸವಿಯ [illegible] ತಿಂಗಳ [illegible] ನೇ
ತಾರೀಖಿನ ದಿನ ನಮ್ಮ ಸಹಿ ಮಾಡಿ ಮತ್ತು ಕೋರ್ಟಿನ ಮೊಹರು ಮಾಡಿ ಕೊಡಲ್ಪಟ್ಟಿತು.

ನಾಮುರ.

[illegible]

ಜಡ್ಜ.

ನೋಟು.—ಅಮಲಾ ಬಜಾವಣಾಯನ್ನು ನಡಿಸಲಿಕ್ಕೆ ಹುಕುಮು ಮಾಡಲ್ಪಟ್ಟಿದ್ದರೆ, ಅದನ್ನು ಈ ನೋಟೀಸಿನಲ್ಲಿ
ತಿಳಿಸಬೇಕು:

25 73 64

Civil Appeal No.125/45.

In the Court of the District Judge,
at Dharwar.

Appellant:- Shrimant Sardar Bhujangrao Daulatrao Ghorpade, age 41, caste Maratha, occupation Jahagirdar, of Gajendragad, Taluka Ron.

versus.

Respondent:- The Provincial of Bombay.

Claim Rs.200/-

The appellant begs to appeal against the decree of the --- First Class Court at Dharwar in L.C.Suit No.448 of 1943, dated 23-2-1945, on the following among other grounds:-

1). The decision of the lower Court, in dismissing the suit against respondent is contrary to law and the evidence in the case.

2). The trial Court erred in holding that the suit was barred under the provisions of the Revenue Jurisdiction Act.

3). The provisions of the aforesaid Act have not been properly interpreted.

4) The lower Court ought to have held that a "no claim relating to land" was involved in the suit, and hence there could be no bar under the Revenue Jurisdiction Act.

5). The Lower Court erred in not keeping distinct "land" and the imposition of s me kind of rate or tax --- thereon.

6). The decision of the High Court referred to is clearly distinguishable.

7). The lower Court erred in observing that section 4(b) cl. 1 appeared to be applicable. That clause is --- obviously inapplicable to the facts of the present case.

8). Earlier decisions on the same point ought to -- have been taken into consideration and the suit ought to have been held as tenable.

9). Proper presumptions and inferences are not drawn.

10). Findings should have been recorded on all the issues and appellant's suit ought to have been decreed.

On these among other grounds, it is prayed that the decree

of the trial Court in so far as it dismissed the suit against respondent be reversed and the suit be decreed with all costs throughout.

Dharwar.
16-4-1945.

Drafted and presented by

Sd/- V.G.Jamkhandi
Pleader.

True copy
S[illegible]
for District Court. Pleader.

A Suits: 95 27 13

Dharwar.
For a declaration that orders passed by Government in G.R., P.D. No. 8969, dated the 20th August 1942, directing the resumption of S.No. 208 Unachgeri are illegal and do not affect the plaintiff's right. A

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 983
Bombay Castle, 26th October 1945.

Read Government Resolution, Legal Department. No.2728 dated 9th April 1945. ✕ - Ap 5

✕ Letter from the Collector of Dharwar, No. L.A.T. 437 dated 9th October 1945, forwarding copy of the letter from

B In the Court of the First Class Sub-Judge, Dharwar.
Civil Suit No. 448 of 1943.

Shrimant Sardar Bhujangrao Daulatrao Ghorpade. .....Plaintiff;
Versus
The Province of Bombay and three others. ..... Defendants.
Claim - Rs. 15/-. B

the District Government Pleader, Dharwar No.440 dated - 8th/14th September 1945 and stating that the plaintiff in the suit noted in the margin has preferred an appeal No. 125 of 1945 in the Court of the District Judge, Dharwar, against the decision of the Civil Judge (S.D.) Dharwar, and requesting sanction etc its defence.

at P.2 ✕ Endorsement by the Commissioner, S.D. No. L.S.T. 312 dated 20th October 1945 forwarding the above with his concurrence.

RESOLUTION : - Sanction is accorded to the defence of the appeal No. 125 of 1945 in the Court of the District Judge, Dharwar, on the lines of the brief accompanying Government Resolution, Legal Department, No. 6176 dated 2nd September 1944 and the favourable grounds contained in the judgment of the Civil Judge, (S.D.) Dharwar, dated 23rd February 1945.

By order of the Governor of Bombay,

Subd. for signature max A.S. 25/10 orders at P.2

Original R. M. Mehta
For(P.N.MOOS.
(Secretary to Government.

Issued 26/10

To
The Political and Services Department,
The Commissioner, N.D.
The Collector of Dharwar,
The District Government Pleader, Dharwar,

Subd. after issue
File in S. Dwr. 11/44

mark
27/10

A.S.
27/10

S. Dwr. 11/44
29/10/45

ఆంధ్రప్రభుత్వము
కూలుపులు నాయింపు
O. 40 - ర. 35.
ఫారం No. 9.
కలక్టర్ - గా
కమిషనర్ - గా

కూలుపులు నాయింపు

27

ధారవాహ ఇళ్ళు ఇంపు ఉపకర్తలకు ఇచ్చే కూలుపులు.

పుచ్చకాయ: ధారవాహ ఇళ్ళు. సం 11 11

ఆజ్ఞలు మెమో కన్నుమి సంఖ్యలు 125 తేదీ 1945 - మార్చి -.

ఎ. శ్రీకాకుళం. పరవాడ బుచ్చింగరాయ; పరలత్తుకాయ.
మ్యూలకర్తకి, సంఖ్యా 41 భాగాత్ము పరాశాకాకపలు ఇవ్వగల
పాఠ నాయుగ ఇచ్చిన్నగత చాటుకోలు.

ఉపకర్తలకు మెమోరండమ్

విరతమ్ము :-

X [illegible] ర. 17272 /
ధర్మ

ది. క్రైస్తవుడు. తీర్థ. బాంబే -

ఉపకర్తలకు మెమోలలో

ధారవాహ - ఇళ్ళు ఇంపు శాఖలోకు - ఉపకర్తలకు ఇచ్చే కూలుపులు -
కూలుపుల మెమో గుర్తు 3 నాటి ఇంపు సంఖ్యలు 448 వరకు
తారీఖు 23 నాటి ఫిబ్రవరి. ఈ తారీఖున మెమో గుర్తు 4 నాటి ఇంపు సంఖ్యలు 449
మొదలు తరువాత ఉపకర్తల పేర్లు మరియు చిరునామాలు ప్రకటించడమైనది.
మొదట ఇచ్చిన ఉపకర్తల పేర్లు - ఇంపు తారీఖులు
23-2-45 నాటి కూలుపు పత్రాలు చూసుకొని ధారవాహ ఇళ్ళు ఇంపు తీసుకొని
మొదట ఉపకర్తలు సంతకాలు చేయవలెను.

ఈ ఉపకర్తలు కొన్ని గ్రామాలలో ఇండ్లు ఇంపు జాబితా తంగళ్ళ
ఈ నోటీసులోని జాబితాలు మరియు మొదటి సంఖ్యలు. పేర్లు ఉపకర్తలు ఇచ్చిన, ఇంపు చేసిన
తేదీలు ఎంతగా ఉన్నదీ ఇవ్వబడినది. పేర్లు చూచి ఇంపు తీసుకోవలెను
దీన్నంతా పుస్తకాల్లో రాయడం కోసం తారీఖు ఎంతగా ఉన్నదీ.
ఇంపు కూలుపులు ఇచ్చేటప్పుడు కూలుపు ఇంపు ఇవ్వడం కోసం ఇంపు
మూడు వేదరుల్ని ఇవ్వవలసి ఉన్నది. - గ్రామాల్లో ఈ కూలుపులు ఇచ్చినప్పుడు ఇంపు ఇవ్వడం కోసం
కొలుపులు ఇళ్ళ శీర్షంలోని కుర్చీలలోనున్న నిద్రారకతి వారు. అక్షరాలన్నీ యూనియన్
ఖచ్చితమైనవి. రద్దుపత్రిసీలంత్రాకే.

ఈ. ఇళ్ళని విచారించడం. లు. అక్షరాలనే తగిలించడం కొత్త చన్నట్లు ఎందరికి చెప్పినా
ఒక్కరుకాలం. ఇవ్వని అక్షరాలు పెట్టడం తిప్పించడం శీర్షంలోని మార్చుకోవాలి
దానిలో ఇచ్చిన ఇళ్ళ శీర్షంలోని కుర్చీలకు శ్రమకాలం కొత్తగా

75/ ఈ ఇళ్ళకు ఎవరినీ కూడా ఇంపు ఇవ్వకూడదు చేసి నట్లు తెలిసినట్లయితే
కూలుపు పుస్తకాలు మరియు తారీఖు పేర్లు వివరాలు, ~~కూలుపు~~ ఇళ్ళ శీర్షంలోని కుర్చీలు
ఎంతగా ఉన్నదీ. చేయగలరు.

ఆదేశము పేర్చిన్ను

ఆదేశించిన	రూపాయలు	అణాలు	పైసలు	అప్పగించిన	రూపాయలు	అణాలు	పైసలు
1. ఆదేశపత్రంలోనింపు గుర్తు కట్టాలి.	18	12	-	1 ఆధారాల పత్రము గుర్తు కట్టాలి.	-	-	-
2. ఆధారాల పత్రము గుర్తు కుదర.	-	-	-	2. తీర్పులోగుళ్ళ బుర్తు కుదర.	-	-	-
3 దావులు తీర్పు కాకుండా గుళ్ళ బుర్తు కుదర	1	14	-	3. దావులు తీర్పు కాకుండా గుళ్ళ కుదర	-	-	-
4. పత్రాలిస్తే గుళ్ళ సంఖ్య సుమారు 314	2	4	-	4. పత్రాలిస్తే గుళ్ళ సంఖ్య సుమా	-	-	-
5 1500/- రూపాయిలుగుళ్ళ మీద ఒక్కటి వసూలు ప్రకారం	75	-	-	5. 1500/- రూపాయిలుగుళ్ళ మీద ఒక్కటి వసూలు ప్రకారం	75	-	-
6. సాక్షులు గుళ్ళ బుర్తు కుదర. 213-4	12	7	-	6. సాక్షులుగుళ్ళ బుర్తు కుదర.	-	-	-
7 బలవంతపు కాళీమను మీద ఒక్కటి వసూలు ప్రకారం	-	-	-	7. కుదర వసూలును తిరిగిచ్చేయాలి.	-		
8. పోస్టేజి బుర్తు కుదర	10	-	-	8. బలవంతపు కాళీమను మీద ఒక్కటి వసూలు ప్రకారం	-	-	-
మొత్తము	120	1	-	మొత్తము	75	-	-

ఈ పేర్చిన్ను తారీఖు 11 నీ జూన్ 1946 లో గుళ్ళ నిమిత్తం
అన నమ్మి నేను ఈ పేర్చిన్ను మీదట కుదరు మొత్తం పూర్తి చేసి ఇవ్వడం జరిగింది.
ఆవిధంగా మొత్తం వసూలు చేసి ఇవ్వడం కమిషనరు ఆఫీసు

sd/ V. R. Gadegkar
Clerk.

sd/ N. C. Vakil
Assistant Judge.
11-6-46.

సాక్షులు.

sd-V. G. Jemakhandi
ఆదేశించిన వకీలు

[ఈ దివాణ్యమే గుళ్ళంచు పక్షకారులకు ఇంకో నెల్లలో వసూలు చేసుకోవడం వకీలు.
బరుస్తారు గుళ్ళ: రవకు తొమ్మిది కాకుండా మూడేసి రూపాయలు చొప్పున రుసుము వసూలు చేయగలరు
ఓపరు (లేబుళ్ళు) అంటించి కోర్టుగుమాస్తా ఇవ్వాలి, వీటిమీద వకీలుగుళ్ళ వివరాలు వ్రాయాలి —
పూర్తిగుర్తు, ఆదేశించిన వకీలు అని వేయాలి. ఉపసంహరణ వసూలు చేయడానికి కోర్టు వాడుకవచ్చు
(అంగరీ నిర్ణయములు వసూలుకు కాదు వచ్చు)]

True copy
B. Ramaiah
Govt Pleader

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In the Court of the Assistant Judge, Dharwar.

At Dharwar.

Appeal No. 125 of 1945 from decree in civil suit No. 448 of 1943 of the Court of the Civil Judge, Senior division of Dharwar (Mr. M.S.Bagali).

Shrimant Sardar Bhujangarao Davalatrao Ghorpade, Jahagirdar of Gajendragad, Taluka Ron ... Appellant. (Original plaintiff).

Against.

The Province of Bombay Respondent. (Original defendant

Claim Rs 200/

Judgment.

This appeal arises out of a suit brought by plaintiff to obtain a declaration that the order made by the Government defendant No. 1 embodied in the Government resolution No. 8969 dated 20th August 1942, is ultra viess and illegal and does not affect plaintiff's right to recover rent or revenue in respect of the land survey No. 208 from Jadid Inamdars defendants 2 to 4. There was a further prayer to recover a sum of Rs. 24-15-0 from defendants Nos. 2 to 4.

The undisputed facts of the case are as under

Plaintiff is the Saranjamdar of Unachageri and other villages in Ron Taluka. Plaintiff's ancestors made a grant of survey No. 208 of the village Uanchageri to the ancestors of the predecessor in title of defendants Nos. 2 to 4. Plaintiff alleges that the grant was

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Against.

The Province of Bombay ... Respondent. (Original defendant

Claim - Rs. 200/-

Judgment.

This appeal arises out of a suit brought by plaintiff to obtain a declaration that the order made by the Government defendant No. 1 embodied in the Government resolution No. 8969 dated 20th August 1942, is ultra vires and illegal and does not affect plaintiff's right to recover rent or revenue in respect of the land survey no. 208 from Jadid Inamdars defendants 2 to 4. There was a further prayer to recover a sum of Rs. 24-15-0 from defendants Nos. to 4.

The undisputed facts of the case are as under :-

Plaintiff is the Paranjamdar of Unachageri and other villages in Ron Taluka. Plaintiff's ancestors made a grant of survey No. 208 of the village Uanchageri to the ancestors of the predecessor in title of defendants Nos. 2 to 4. Plaintiff alleges that the grant was

burdened with service. Defendants Nos. 2 to 4 purchased the rights of grantee from latter's descendants on 14-6-1940. Then followed commutation of the grant with the result that defendants Nos. 2 to 4 agreed to pay a sum of Rs. 24-15-0 as rent or revenue for the land to the plaintiff. On 20-8-1942, the provincial Government by its resolution No. 8969 Political and Services Department, directed that the suit land be resumed but that the resumption should be by way of levey of full assessment.

Plaintiff contended that the order passed by the Government and mentioned in the preceeding para was illegal for the following reasons : The land still formed part of the Saranjam; the claim was both of soil and revenue, and that the actual holders all along recognised the plaintiff's right as Saranjamdar. The Provincial Government was made a party as the order passed affected plaintiff's right.

The suit was resisted by the Provincial Government alone (defendant No. 1). One of the contentions raised was that the suit was barred under section 4 clauses (s) (b) of the Bombay Revenue Jurisdiction Act. The Lower Court accepted this contention and dismissed the plaintiff's suit. Plaintiff has therefore preferred the present appeal.

The only question to be considered in the present appeal is whether the Lower Court was right in holding that the plaintiff's suit was barred under section 4 of the Bombay Revenue Jurisdiction Act. That section provides for bar of certain suits. It says that no civil Court shall exercise jurisdiction as to any of the following matters enumerated therein. In sub-section (a) there are four clauses. Clauses 1 to 3 ~~provides for saranjam and~~ relate to claims under Bombay Act No. III of 1874. Clause 4 provides for Saranjam and other lands. That is the relevant clause for consideration. It

provides for for ousting jurisdiction of civil Courts in respect of claims against Government relating to lands held as Saranjam &c. Admittedly the suit land was held as Saranjam Where a claim against Government was advanced and rested upon a saranjam tenure it was held that the claim would be barred under section 4 of the Bombay Revenue Jurisdiction Act Vide Daulatrao Mallojirao Vs. Government of Bombay (47 Bom. L.R. 214). Two questions arise for consideration; whether the present suit was a claim against Government and whether it related to Saranjam land. In Mallappa Vs. Tukko (A.I.R. 1937), similar terminology used in clause (1) of section 4(a) was construed. It was observed that the words " claim against Government relating to property or lands " might fairly be said to imply that relief of some kind was sought against Government and that the Government must be more than a purely formal party. It was further observed that if Government was bound by the decree to make any payment or restore any property or if an injunction was sought against Government that was a claim against Government. In short, if granting of a relief affects Government and the order made by it, it is a claim against Government. In the present case if the suit is decreed, the order of resumption will go by the Board. It will then be not open to Government to resume the land. Hence it was not urged that the present suit was not a claim against Government. What was urged was that it was not a suit relating to land held as saranjam. Emphasis was laid on the word land and it was urged that plaintiff had not claimed any relief in respect of land ". It was however argued that no claim relating to land was involved in the suit. This argument is based on the fact that the resumption was to be made not by taking actual possession but by levy of full assessment. Plaintiff's case is that his rights vis-avis defendants numbers 2 to 4 remain unaffected and that in the present suit he disputes Government's right to resume by levying full assessment. It is apparent that full

assessment is levied on the land as resumption is effected. In cases of resumption pure and sinle if a suit is brought to get over such an order, it could not have been denied. that suit a suit is one relating to land. But as resumption has taken the form of levy of full assessment, it is urged that it is a suit in which dispute is about imposition of some kind or rate or tax. I am afraid I am not able to appreciate this distinction made. The learned Government pleader contended that in that case the suit would be barred under clause (b) of section of the Bombay Revenue Jurisdiction Act. I doubt whether the provisions of clause (b) of section 4 of the Act are at all applicable. But it is plain that the suit relates to the order of resumption made in respect of saranjam land. It cannot be the plaintiffs case that plaintiff Govt. is not entitled to levy full assessment if resumption is made. So what is disputed is resumption and not levy of full assessment. Levy of full assessment is merely an effect of resumption. It is for this reason that plaintiff sued for a declaration that the order made was null and void and illegal. Apparently therefore the claim is one relating to Sarajman and is barred under section 4(a) of the Bombay Revenue Jurisdiction Act. As against pointed out in Daulatrao's case plff should have moved in the matter under section 12 of the Act when ordinary jurisdiction of the Civil Court is ousted in the matter of revenue Jurisdiction exercised by Government.

Result is that the finding recorded by the Lower Court that the suit was barred under section 4 of the Revenue Jurisdiction Act must be upheld and the decree dismissing the suit be confirmed.

Order.

The decree dismissing the suit is confirmed and the appeal is dismissed with costs.

11th June 1946. Sd/ N.C.Vakil.

Assistant Judge.

Grounds of appeal.

1 The decision of the Lower Court in dismissing the suit against respondent is contrary to law and the evidence in the case.

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2. The trial Court erred in holding that the suit was barred under the provisions of the Revenue Jurisdiction Act.

3. The provisions of the aforesaid Act have not been properly interpreted.

4 The Lower Court ought to have held that the claim relating to land was involved in the suit and hence there could be no bar under the Revenue Jurisdiction Act.

5. The Lower Court erred in not keeping distinct land and the imposition of some kind of rate or tax thereon.

6. The decision of the High Court referred to is clearly distinguishable ?

7. The Lower Court erred in observing that section 4 (b) cl. 1 appeared to be applicable. The clause is obviously inapplicable to the facts of the present case.

8. Earlier decisions on the same point ought to have been taken into consideration and the suit ought to have been held as tenable.

9 Proper presumptions and inferences are not drawn.

10. Findings should have been recorded on all the issues and appellant's suit ought to have been decreed.

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2. The trial Court erred in holding that the suit was barred under the provisions of the Revenue Jurisdiction

The provisions of the aforesaid Act have not been properly interpreted.

4. The Lower Court ought to have held that the claim relating to land was involved in the suit and hence there could be no bar under the Revenue Jurisdiction Act.

5. The Lower Court erred in not keeping distinct land and the imposition of some kind of rate or tax thereon.

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7. The Lower Court erred in observing that section 4 (b) cl. 1 appeared to be applicable. The clause is obviously inapplicable to the facts of the present case.

8. Earlier decisions on the same point ought to have been taken into consideration and the suit ought to have been held as tenable.

9. Proper presumptions and inferences are not drawn.

10. Findings should have been recorded on all the issues and appellant's suit ought to have been decreed.

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Suits: 39

Dharwar.
For a declaration that orders passed by Government in G.R., P.D. No. 8969, dated the 20th August 1942, directing the resumption of S.No.208 Unachgeri are illegal and do not affect the plaintiff's right.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 4966
Bombay Castle, 12th July 1946.

Read Government Resolution, Legal Department, No.7983, dated the 26th October 1945.

Letter from the District Government Pleader, Dharwar,

In the Court of the First Class Sub-Judge, Dharwar.
Civil Suit No.448 of 1943.

Shrimant Sardar Bhujangrao Daulatrao Ghorpade. .. ... Plaintiff;

Versus

The Province of Bombay and three others. .... Defendants.

Claim - Rs. 15/-.

No.915, dated the 15th June 1946, stating that the Civil Appeal No.125 of 1945 filed by the - plaintiff in the suit noted in the margin was decided by the Assistant Judge, Dharwar, on 11th June 1946, when the following order was passed :-

"The decree dismissing the suit is confirmed and the appeal is dismissed with costs".

Letter from the District Government Pleader, Dharwar, No.949, dated the 2nd July 1946, forwarding uncertified copies of the judgment and decree.

RESOLUTION. - The result of the appeal is recorded.

By order of the Governor of Bombay,

Original R.M. Mehta

R.M. MEHTA,
Assistant Secretary to Government.

To
The Political and Services Department,
The Commissioner, Southern Division,
The Collector of Dharwar.

Issued Jms 12/7

LK. 11/7.

Submitted for signature.
Bms 11-7
A.S. 12/7

Submitted after issue
= file in S-Doc 11/44

AG.P
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S. Doc 11/